

§ 73.735–501

taxes. “In a proper and timely manner” is a manner which the Department determines does not, under the circumstances, reflect adversely on the part of an employee in meeting his or her financial obligations, particularly those that relate to support of the employee’s family, to payment of Federal, State, or local taxes, or to payments to tax-supported institutions such as a city or State hospital, or educational institution. If for some reason an employee is unable to pay these obligations promptly, he or she is expected to make satisfactory arrangements for payment and abide by these arrangements.

(b) Disciplinary action may be considered when an employee has handled his or her financial affairs in such a way that:

(1) Action on complaints received from creditors requires the use of a considerable amount of official time, or

(2) It appears that financial difficulties are impairing the employee’s efficiency on the job, or

(3) Because of the employee’s financial irresponsibility, the attitude of the general public toward the Department may be adversely affected; and the employee after counseling does not make arrangements to meet his or her financial obligations.

Subpart E—Gifts, Entertainment, and Favors

§ 73.735–501 Prohibited acceptance of gifts, entertainment, and favors.

(a) Except as provided in §§ 73.735–502 and 73.735–506, an employee shall not directly or indirectly solicit or accept anything of monetary value, including gifts, gratuities, favors, entertainment or loans from a person who the employee knows, or should know because of the nature of the employee’s work:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the employee’s principal operating component, or sub-unit thereof; or with a component of the Department with respect to which the employee has official duties;

(2) Conducts operations or activities that are regulated by the employee’s principal operating component, or sub-

45 CFR Subtitle A (10–1–02 Edition)

unit thereof or by a component of the Department with respect to which the employee has official duties; or

(3) Has interests that may be substantially affected by the performance or non-performance of the employee’s official duties.

(b) Employees may not designate a person or an organization, including charitable or non-profit organizations, to accept any gift which an employee is prohibited from accepting directly.

§ 73.735–502 Permissible acceptance of gifts, entertainment, and favors.

(a) An employee may accept a gift, gratuity, favor, entertainment, loan or similar favor of monetary value which stems from a family relationship such as that between the employee and his or her parents, spouse or children, if it is clear that the relationship is the motivating factor.

(b) Loans from banks or other financial institutions may be accepted on customary terms.

(c) Unsolicited advertising or promotional material such as pens, note pads, calendars and similar items of nominal intrinsic value may be accepted.

(d) An employee may accept food or refreshment of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or on an inspection tour only if the employee is properly in attendance and there is not a reasonable opportunity to pay.

Example 1: Employee is on the premises of Company participating in a meeting at a normal mealtime. A representative of Company provides a meal for all meeting participants from a Company facility and there is no established method for payment. Employee may accept.

Example 2: Employee is on the premises of Company and he or she goes outside for lunch with a representative of the Company. The representative offers to pay the bill. Since it is practical for the employee to pay for his or her own meal, the employee may not accept.

(e) An employee may also accept food or refreshment of nominal value on infrequent occasions if the food and/or refreshment is offered to all participants or attendees of a meeting or convention.

Department of Health and Human Services

§ 73.735–506

Example 1: During the course of a convention of a professional organization a luncheon open to all attendees is sponsored by a corporation which conducts business with the Department and the employee has official dealings with representatives of the corporation. The employee may attend the luncheon.

§ 73.735–503 Criminal provisions relating to gifts, entertainment, and favors.

(a) The law provides criminal penalties for whoever, directly or indirectly:

(1) Receives or accepts anything of value for or because of any official act the employee has performed or will perform; or

(2) Gives, offers or promises anything of value for the performance of an official act or to influence the performance of an official act. 18 USC 201.

(b) The law prohibits an employee from receiving any salary or any contribution to, or supplementation of, his or her salary as compensation for services as an officer or employee of the Government from any source other than the United States or any State, county or municipality. This law does not prohibit an employee from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus or other employee welfare or benefit plan maintained by a former employer. 18 U.S.C. 209.

Example 1: A corporate executive is asked to accept a position in the Department. The corporation offers to continue to pay the executive the difference between his or her salary as a Government employee and that received by an employee of the corporation. Such payment would be considered to be “compensation for” the employee’s Government service and is prohibited.

Example 2: A corporate executive is asked to accept a position in the Department. The corporation proposes to pay him or her a special severance payment in anticipation of this or her serving in the Government. This proposal would be prohibited because there is no distinction between the proposed lump-sum payment and the prohibited continuation of salary payments described in the example above.

Example 3: A corporate executive is asked to accept a position in the Department. The corporation has an established policy which provides for an amount of severance pay to be paid any departing executive and proposes

to make payment based on that policy when the executive leaves. The executive may accept the payment. Under these circumstances it is clear that the severance pay is in payment for past services not in anticipation of the future services for the Government.

§ 73.735–504 Gifts to official superiors.

An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself or herself. 5 U.S.C. 7351. This section does not prohibit a voluntary gift of nominal value or donation in nominal amount made on a special occasion such as marriage, illness or retirement.

§ 73.735–505 Acceptance of awards and prizes.

(a) Employees may accept awards, including cash awards, given in recognition of a meritorious public contribution or achievement. However, if there is any indication that the award may improperly influence the employee in the performance of his or her official duties, advice about the acceptance of it should be sought from a deputy ethics counselor. Also, an employee may not accept an award from an organization which the employee knows, or should know, has a contractual or other business arrangement with, or is regulated by, the principal operating component, or a sub-unit, in which he or she is employed or with respect to which the employee has official duties, unless acceptance is approved by the head of the employee’s principal operating component. The head of the component may not approve acceptance unless he or she is satisfied that no actual conflict of interest would result.

(b) Employees may generally accept trophies, entertainment, rewards, and prizes given to competitors in contests or events which are open to the public.

(c) Employees may not accept gifts, awards, decorations or other things of value from a foreign government except as provided in § 73.735–506.

§ 73.735–506 Gifts and decorations from foreign governments.

(a) An employee may not request or otherwise encourage the tender of a